

State of California

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Legislative Change No.

03-14

Bill Number: AB 1742

Author: AR&T Committee

Chapter Number: 03-455

Laws Affecting Franchise Tax Board: Revenue and Taxation Code Sections 18621.9, 19104, 19120, 19368, 19411, 19520, 23114, and 24328.

Date Filed with the Secretary of the State: September 22, 2003

SUBJECT: Golden State Scholarshare Trust Tech/Erroneous Refund Interest/Authority To Use New-Hire Registry Info/Min. Franchise Tax/15-Day Disregard Rule/Mandatory E-File Technical

Assembly Bill 1742 (Assembly Revenue and Taxation Committee), as enacted on September 22, 2003, made the following changes to California law:

This act contains Franchise Tax Board (FTB) sponsored proposals that:

- rennumbers the tax law code section for the Golden State Scholarshare Trust,
- simplifies the computation of interest on erroneous refunds, and
- clarifies FTB's authority to use the information contained in the new-hire and contractor registries maintained by the Employment Development Department when collecting on Non-Tax Debt Programs administered by FTB.

In addition, this act:

- clarifies that a corporation's period of inactivity of 15 days or less between the date of incorporation and the beginning of its next annual accounting period is disregarded as a taxable year,
- allows interest abatement on high-dollar erroneous refunds that are repaid in 30 days, and
- clarifies the operative date regarding a provision of recently enacted law that requires individual income tax returns prepared by certain tax practitioners to be e-filed with FTB.

Section 18621.9 of the Revenue and Taxation Code is amended.

This act clarifies the operative date of recently enacted legislation, AB 1756 (Assembly Budget Committee, Stats. 2003, Ch. 228), to reflect the original intent of the act. The clarification requires tax preparers that prepare more than 100 individual income tax returns in a calendar year (beginning with the calendar year starting January 1, 2003) to e-file all returns filed with FTB beginning on or after January 1, 2004.

In addition, this act makes a technical change to clarify that the requirement to e-file does not apply prior to January 1, 2004.

Bureau Director
Jana Howard for Brian Putler

Date
9/30/03

Section 19104 of the Revenue and Taxation Code is amended.

This act eliminates the \$50,000 threshold that prevents interest from being abated if erroneous refunds in excess of that amount are repaid within 30 days.

Sections 19120, 19368, and 19411 of the Revenue and Taxation Code are amended.

This act amends the Revenue and Taxation Code to conform to federal law. This change clarifies that the general method for calculating interest on an erroneous refund is for interest to accrue from the date the refund is erroneously made, but interest must be abated for the period from the date the erroneous refund is made to 30 days after demand for repayment is made by FTB.

Section 19520 of the Revenue and Taxation Code is added.

Under this act, when a law allows the use of information for “tax enforcement” purposes, tax enforcement includes the collection of any amount that is referred to FTB for collection where FTB may use any manner authorized under law for collecting unpaid tax liabilities.

Essentially, since current law allows FTB to use information like the new-hire and contractor data registries for tax enforcement purposes, this act clarifies the law to allow FTB to use those same information sources for collection of Non-Tax Debts, which FTB is authorized under law to collect as if a personal income tax.

Section 23114 of the Revenue and Taxation Code is amended.

This act clarifies the law to expressly provide that the 15-day period for which a corporation is not subject to franchise tax is disregarded as a taxable year for purposes of granting taxpayers relief from the minimum franchise tax. This act is consistent with FTB’s interpretation of existing law.

Section 24328 of the Revenue and Taxation Code is amended and renumbered.

This act renumbers the Scholarshare Trust Section as Section 23711.5, which places it in the exempt corporations chapter (Chapter 4, Article 1) of the Corporation Tax Law and makes a technical change to the statute.

This act is effective and operative beginning on or after January 1, 2004.

This act will not require any reports by the department to the Legislature.